



U.S. Department of Energy
Energy Efficiency and Renewable Energy

federal energy management program

UTILITY ENERGY SERVICES CONTRACTS: ENABLING DOCUMENTS (rev.3 - Update)

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Purpose

- Enabling Documents provide a selected set of background information materials that clarify the authority for Federal agencies to enter into UESCs.
- Offered as a valuable resource designed to assist Federal agencies and their partners in making informed decisions concerning financing for energy projects within the Federal government.



Table of Contents Modifications

- A. Overview
- B. Legislative & Executive Actions
- C. Legal Opinions
- D. Agency Guidance
- E. UESC Contract Types
- F. Sample Documents
- G. Lessons Learned
- H. Resources



- Inserting text to reflect impacts of new legislative and executive actions
- Modifying text to reflect the current environment of financed energy projects



Legislative & Executive Actions - Modifications

- Inserting key text from 42 USC § 8253, Energy Policy Act of 2005
- 42 USC § 8256, Energy Policy Act of 1992
- Inserting 10 USC § 2911, Energy Performance Goals and Plan for Department of Defense
- Inserting 10 USC § 2912, Availability and use of Energy Cost Savings
- Inserting 10 USC § 2913, Energy Savings Contracts and Activities



Legislative & Executive Actions - Updates

- Inserting 10 USC § 2914, Energy Conservation Construction Projects
- Inserting 10 USC § 2915, New Construction: Use of Renewable Forms of Energy and Energy Efficient Products
- Inserting 10 USC § 2916, Sale of Electricity from Alternate Energy and Cogeneration Production Facilities
- Inserting amended 10 USC § 2866, Water Conservation at Military Installations (amended)
- Federal Acquisition Regulations, Part 41, Acquisition of Utility Services
- Inserting Executive Order 13423



Legal Opinions

- no changes or additions

- Authority for Extended Utility Agreements
May 9, 2000, Richard Butterworth, GSA
- Relationship of the Anti-Deficiency Act to Multi-year Contracts
June 22, 1999, Mark Schwartz, DOE
- Definition of Demand Side Management Services
December 17, 1998, Larry Oliver, DOE
- Statutory Exception from Competition in DSM Utility Contracts
July 7, 1994, memorandum from Anne Troy, DOE



Agency Guidance Modifications

*Inserting Procuring Energy Management Services with the
GSA Utility Areawide Contract
General Services Administration*

*Inserting Utility Energy Services Contract (UESC)
Guidance Memorandum*

*March 23, 2004, Colonel Charles Guta & Joseph Plunkett,
Dept. of the Army*

*Inserting ESPC and UESC/ Demand Side Management
Memorandum (addition)*

*September 15, 2003, Major General Anders Aadland,
Department of the Army*

*Inserting Performance Assurance for Multi-year
Contracts under the Utility Incentive Program
FEMP Financing Recommendation*



Performance Assurance

- Minimal Performance Assurance Plan FEMP / FUPWG recommendation:
 - 1. Start-up performance verification (based on measured data);
 - 2. Performance verification at the end of warranty period (based on measured data);
 - 3. Operations and maintenance training (required in the more common instance where the agency continues to operate and maintain installed equipment);
 - 4. Provision of continuing training throughout the contract period as specified in the contract as determined by the needs of the facility;
 - 5. Periodic inspections and verification of appropriate O&M performance; and
 - 6. Performance discrepancy resolution.



Agency Guidance - no changes to these items

Participation in Public Utility Sponsored EC/DSM Programs
Defense Energy Program Policy Memorandum 94-1

Sole Source Justification
Alternative Financing Guidance Memorandum #001

Congressional Notification for Utility Projects
Alternative Financing Guidance Memorandum #002

Relationship of Anti-Deficiency to Multi-year Contracts
Alternative Financing Guidance Memorandum #003

Source of Funds
Alternative Financing Guidance Memorandum #004



UESC Contract Types - Modifications

- GSA Model Areawide Contract
- Inserting Basic Ordering Agreement (BOA)
- Inserting Site Specific Contract
- Inserting revised UESC Model Agreement
(pending final review and approval)



Sample Documents Modifications

- Inserting Assignment of Claims
- Looking for sample document ~ Competition Between Serving Utilities
- Inserting ESCO-Utility Agreement
- Looking for process example ~ Retaining Savings
- Inserting samples of Payment Stream Options
- Looking for "Business Case for Utilities Considering Energy Services Program"



Lessons Learned Modifications

- Inserting text describing the "Availability of Funds Crossing Fiscal Years"
- Inserting text describing process of "Rolling Costs from Phase to Phase"
- Inserting text describing benefits of "Soliciting Competitive Financing"
- Inserting text describing "Impacts of Non- or Late Payments"
- Inserting text describing "Implications of Refinancing"
- Lessons Learned from previous edition



- Updating UESC Reference Guide
 - Include Utility program URL
 - Utility Services List
 - UESC Process Timeline & Key Milestones
 - Include UESC Case Studies URL
 - Include UESC Frequently Asked Questions
 - Include "Choosing a Financing Vehicle for Energy Efficiency Projects" - description + URL
 - Life-cycle Cost Analysis - description + URL
 - Measurement & Verification - description + URL
 - Metering Guidance - description + URL
 - Commissioning Guide - description + URL
 - O&M Best Practices - description + URL
 - OMB Energy Scorecard - description + URL



- Updating UESC Contacts
 - U.S. Department of Energy Contacts - Titles + URL
 - Utility Contacts - Titles + URL
 - Agency Contacts
 - (List agencies using UESC successfully)*
- Inserting Definitions
 - (Those not listed in Model Agreement or Areawide)*



Revision 3 Actions

- Email Karen & Deb
 - Additional documents for consideration/inclusion
 - Pending agency guidance
(DOD Guidance Memorandum on new legislation)
- Email Karen & Deb additional documents for consideration/inclusion
- Circulate Draft of Enabling Documents to subcommittee ~ July 16, 2007
- Post Final Draft of Enabling Documents for Comments ~ September 30, 2007



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